

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	Case Number: 1:06CV01151
v.)	
)	Judge: Rosemary M. Collyer
INCO LIMITED, and)	
FALCONBRIDGE LIMITED,)	
<i>Defendants.</i>)	DATE STAMP: September 18, 2006
)	

Plaintiff United States of America, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, hereby dismisses all causes of action in the complaint as to defendants Inco Limited (“Inco”) and Falconbridge Limited (“Falconbridge”) without prejudice.

The United States is dismissing this action because there is no longer a basis for the relief sought by the United States. This action was brought to prevent the acquisition of Falconbridge by Inco. However, since August 15, 2006, as the result of a tender offer for Falconbridge shares launched by a third company, Xstrata plc (“Xstrata”), the majority of the shares of Falconbridge have been owned by, and Falconbridge has been controlled by, Xstrata. Inco has formally abandoned its effort to acquire Falconbridge, and has withdrawn its Hart-Scott-Rodino Pre-

Merger Notification filing for that proposed transaction. Consequently, there currently is no possibility that the acquisition addressed in the complaint will take place.

Inco and Falconbridge have filed neither an answer to the complaint nor a motion for summary judgment as to these claims. The only substantive papers filed in this case other than the Complaint were (a) the Hold Separate Stipulation and Order, signed by all parties and entered by the Court on June 28, 2006, and the accompanying proposed Final Judgment, and (b) the Competitive Impact Statement filed by the United States alone. Dismissal under Rule 41(a)(1) is therefore appropriate.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

_____/s/_____
Robert W. Wilder (Virginia Bar #14479)
U.S. Department of Justice
Antitrust Division
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Dated: September 18, 2006

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Plaintiff's Notice of Dismissal of Complaint has been served upon counsel identified below, in the manner indicated, on this 18th day of September, 2006:

Via hand-delivery:

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_____/s/_____
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